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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,803	08/31/2001	Maarten Menzo Wentink	050337-1080 (05CXT0043WL)	1389
24504	7590	11/15/2005	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			PATEL, AJIT	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/943,803

Applicant(s)

WENTINK, MAARTEN MENZO

Examiner

AJIT G. PATEL

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Benveniste (newly cited, U.S. Pub. # 2002/0163933).

Regarding claim 1, Benveniste discloses a method for priority -based shared channel access which incorporating the steps of directing to a first output queue at a first station of a communication network, message data units to be transmitted over a communication medium and having a first traffic classification (0229,0231); directing to a second output queue at the first station, message data units to be transmitted over the communication medium and having a second traffic classification (0229,0231); sensing the communication medium for an opportunity to transmit message data units without interference from message data units transmitted by a second station, according to sets of rules that vary by traffic classification yet are common to the first station and the second station (0047).

Regarding claim 2, Benveniste discloses the step of allowing only one of the first and second output queues to transmit, if the first and second output queues each contain message data units scheduled to be transmitted during a particular opportunity

to transmit, according to said sets of rules (0231,0233,0234).

Regarding claim 3, Benveniste discloses the step of attempting to retransmit, after a respective interval defined differently by each said set of rules, any message data unit transmitted over the communication medium by a station that collides with a message data unit transmitted by another station (0047).

Regarding claim 4, Benveniste discloses the step of attempting to initially transmit a first message data unit from the second output queue of the first station, in accordance with the set of rules corresponding to the traffic classification thereof, as if an unsuccessful attempt to transmit the first message data unit had already been made during a previous transmission opportunity (0248).

Regarding claims 5,6, Benveniste discloses the limitation wherein an attempt is made to transmit the first message data unit after an interval specified by the set of rules corresponding to the traffic classification of the second queue and wherein the interval is within a respective random variable window having a corresponding minimum and maximum duration (024,0250).

Regarding claim 7, please see the rejection for claims 1-2.

Regarding claim 8, Please see the rejections for claims 3-4.

Regarding claim 9, Huang et al disclose a communication system for exchanging message data units over a communication medium shared by other systems in a local area network, comprising: a first output queue adapted to receive message data units having a first traffic classification, said first output queue being operable to release message data units for transmission over a communication medium

in accordance with a first set of rules corresponding to the first traffic classification (0229,0231); a second output queue adapted to receive message data units having a second traffic classification, said second output queue being operable to release message data units for transmission over a communication medium in accordance with a second set of rules corresponding to the second traffic classification (029,0231); and a transceiver operative to sense the communication medium for an opportunity to transmit message data units, without interference from message data units transmitted by a second station, and to transmit data message units from each of said first and second output queues according to said first and second sets of rules (0047,,0232,0233,0237).

Regarding claim10, Benveniste discloses the communication medium is a wireless channel and wherein said transceiver includes an RF transmitter and antenna (0031).

3. Applicant's arguments, see pages 1-4, filed 7/20/2005, with respect to the rejection(s) of claim(s) 1-10 under 102 (e) and 103 rejection have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Benveniste.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AJIT G. PATEL whose telephone number is 571-272-3140. The examiner can normally be reached on MONDAY-THURSDAY.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AP

  
**Ajit Patel**  
**Primary Examiner**